

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DEREK W. MILLER,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 10-346-GPM
)	
VIPIN SHAH, M.D., and ST. CLAIR)	
COUNTY JAIL,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

MURPHY, District Judge:

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Donald G. Wilkerson (Doc. 61), recommending that the motions to dismiss for failure to exhaust administrative remedies filed by Defendants Shah (Doc. 14) and St. Clair County Jail (Doc. 33) be denied. In accordance with the dictates of *Pavey v. Conley*, 544 F.3d 739 (7th Cir. 2008), Magistrate Judge Wilkerson held a hearing on April 14, 2011, to determine whether Plaintiff exhausted available administrative remedies (*see* Doc. 43). Magistrate Judge Wilkerson issued his Report and Recommendation on June 8, 2011; no timely objections have been filed.

Where timely objections are filed, this Court must undertake a *de novo* review of the Report and Recommendation. 28 U.S.C. § 636(b)(1)(B), (C); FED. R. CIV. P. 72(b); SDIL-LR 73.1(b); *Harper v. City of Chicago Heights*, 824 F. Supp. 786, 788 (N.D. Ill. 1993); *see also Govas v. Chalmers*, 965 F.2d 298, 301 (7th Cir. 1992). The Court “may accept, reject or modify the magistrate judge’s recommended decision.” *Harper*, 824 F. Supp. at 788. In making this determination, the

Court must look at all of the evidence contained in the record and “give ‘fresh consideration to those issues to which specific objections have been made.’” *Id.*, quoting 12 Charles Alan Wright et al., *Federal Practice and Procedure* § 3076.8, at p. 55 (1st ed. 1973) (1992 Pocket Part).

However, where neither timely nor specific objections to the Report and Recommendation are made, pursuant to 28 U.S.C. § 636(b), this Court need not conduct a *de novo* review of the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985). Accordingly, the Court **ADOPTS** Magistrate Judge Wilkerson’s Report and Recommendation (Doc. 61)¹ and **DENIES** Defendants’ motions to dismiss for failure to exhaust administrative remedies (Docs. 14, 33).

IT IS SO ORDERED.

DATED: 06/30/11

s/ *G. Patrick Murphy*
G. PATRICK MURPHY
United States District Judge

¹While a *de novo* review is not required, the Court fully agrees with the findings, analysis, and conclusions of Magistrate Judge Wilkerson.